

AUG 21 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

JOSEFINA CAMPOS-MARTINES,

Petitioner,

v.

JOHN D. ASHCROFT, U.S. Attorney
General,

Respondent.

No. 02-70679

INS No. A70-786-554

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted August 5, 2003
Pasadena, California

Before: KOZINSKI and T.G. NELSON, Circuit Judges, and RESTANI,**
Judge.

Josefina Campos-Martines petitions for review of the decision by the Board
of Immigration Appeals (“BIA”) denying her application for suspension of

* This disposition is not appropriate for publication and may not be cited
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable Jane A. Restani, United States Court of International
Trade, sitting by designation.

deportation. Because the facts are known to the parties, we do not recite them here. The transitional rules of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 govern this petition.¹ We have jurisdiction pursuant to 8 U.S.C. § 1105a (1996), and we grant the petition.

The only ground upon which the BIA relied to deny relief was the conclusion by the Immigration Judge (“IJ”) that Campos-Martines failed to show seven years’ continuous physical presence.² Campos-Martines testified that she was continuously present in the United States for more than seven years during the relevant period. The IJ specifically found Campos-Martines credible. However, the IJ nonetheless concluded that Campos-Martines failed to show the requisite continuous physical presence because of gaps in the documentation she provided.³ We find that the evidence presented “compels a contrary conclusion.”⁴ Thus, we

¹ *Kalaw v. INS*, 133 F.3d 1147, 1150 (9th Cir. 1997).

² We review the BIA’s conclusion that Campos-Martines failed to show continuous physical presence for substantial evidence. *Kalaw*, 133 F.3d at 1151. When, as in this case, the BIA adopts the reasoning of the IJ, we review the decision of the IJ. *Vera-Villegas v. INS*, 330 F.3d 1222, 1230 (9th Cir. 2003).

³ *Vera-Villegas*, 330 F.3d at 1225, 1234 (holding that credible testimony alone suffices to establish the continuous physical presence requirement).

⁴ *Hernandez-Montiel v. INS*, 225 F.3d 1084, 1091 (9th Cir. 2000) (internal quotation marks omitted).

grant the petition and remand to the BIA.

PETITION GRANTED.